

EXHIBIT A

CENTER FOR DISABILITY ACCESS
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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

Chris Langer,

Plaintiff,

v.

Valley Center Oil Corporation, a
California Corporation; and Does 1-10,

Defendants.

Case No.

37-2011-00056942-CU-CR-NC

**Complaint For Damages And
Injunctive Relief** For Violations Of:
American's With Disabilities Act;
Unruh Civil Rights Act; California
Disabled Persons Act; Negligence

Demand For Jury

Plaintiff Chris Langer complains of Defendants Valley Center Oil Corporation, a California Corporation; and Does 1-10 ("Defendants") and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. He is a paraplegic who cannot walk and who uses a wheelchair for mobility.

2. Defendants are, or were at the time of the incident, the owners and operators, lessors and/or lessees of the gas station/convenience store called either Valley Center Oil or Pacific Pride (there is signage for both at the location) ("Valley Center Oil") located at or about 28010 Valley Center Road, Valley Center,

1 California.

2 3. Plaintiff does not know the true names of Defendants, their business
3 capacities, their ownership connection to the property and business, or their relative
4 responsibilities in causing the access violations herein complained of, and alleges a
5 joint venture and common enterprise by all such Defendants. Plaintiff is informed
6 and believes that each of the Defendants herein, including Does 1 through 10,
7 inclusive, is responsible in some capacity for the events herein alleged, or is a
8 necessary party for obtaining appropriate relief. Plaintiff will seek leave to amend
9 when the true names, capacities, connections, and responsibilities of the
10 Defendants and Does 1 through 10, inclusive, are ascertained.

11
12 **FACTUAL ALLEGATIONS:**

13 4. The Plaintiff went to the Valley Center Oil in March of 2011. The Valley
14 Center Oil is a facility open to the public, a place of public accommodation, and a
15 business establishment.

16 5. Unfortunately, the Valley Center Oil is inaccessible to wheelchair users
17 because there is not a single handicap parking space among the parking spaces
18 offered to the Defendants' customers. Additionally, the sales/transaction counter is
19 more than 40 inches high and there is no lowered (36 inch high) portion of counter
20 for use by persons in wheelchairs. The lack of accessible facilities is discriminatory
21 and a barrier to access and amount to violations of the laws pled below.

22 6. The plaintiff personally encountered violations and it denied him full and
23 equal access. Plaintiff would like to return and patronize the Valley Center Oil but is
24 deterred from doing so on a full and equal basis until the defendants provide access.

1 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS WITH**
2 **DISABILITIES ACT OF 1990** (On behalf of plaintiff and against all defendants
3 (42 U.S.C. section 12101, et seq.)

4 7. Plaintiff repleads and incorporates by reference, as if fully set forth again
5 herein, the allegations contained in all prior paragraphs of this complaint.

6 8. The Defendants are persons who own, operate, lease or lease to a place of
7 public accommodation. As such, the Defendants are required to ensure that persons
8 with disabilities are not discriminated against and, additionally, have specific duties
9 to (1) ensure that all construction, alteration, or modification is barrier free and
10 complies with the Americans with Disabilities Act Accessibility Guidelines
11 ("ADAAG"); and/or (2) remove all existing barriers where such removal is "readily
12 achievable," and/or (3) to provide alternatives to barrier removal. The Defendants
13 have failed to meet these obligations.
14

15 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**
16 **RIGHTS ACT** (On behalf of plaintiff and against all defendants) (Cal Civ § 51-53)

17 9. Plaintiff repleads and incorporates by reference, as if fully set forth again
18 herein, the allegations contained in all prior paragraphs of this complaint.

19 10. The Defendants are persons who own, operate, lease or lease to a place of
20 public accommodation. As such, the Defendants are required to ensure that persons
21 with disabilities are not discriminated against and, additionally, have specific duties
22 to: (1) ensure that all construction, alteration, or modification is barrier free and
23 complies with the Americans with Disabilities Act Accessibility Guidelines
24 ("ADAAG") and Title 24 of the California Code of Regulations (aka "California
25 Building Code"); and/or (2) remove all existing barriers where such removal is
26 "readily achievable," and/or (3) to provide alternatives to barrier removal. The
27 Defendants have failed to meet these obligations.
28

1 **III. THIRD CAUSE OF ACTION: VIOLATION OF THE CALIFORNIA**
2 **DISABLED PERSONS ACT** (On behalf of plaintiff and against all defendants)
3 (Cal Civ. § 54-54.8)

4 11. Plaintiff repleads and incorporates by reference, as if fully set forth again
5 herein, the allegations contained in all prior paragraphs of this complaint.

6 12. The Defendants are persons who own, operate, lease or lease to a place of
7 public accommodation. As such, the Defendants are required to ensure that persons
8 with disabilities are not discriminated against and, additionally, have specific duties
9 to: (1) ensure that all construction, alteration, or modification is barrier free and
10 complies with the Americans with Disabilities Act Accessibility Guidelines
11 ("ADAAG") and Title 24 of the California Code of Regulations (aka "California
12 Building Code"); and/or (2) remove all existing barriers where such removal is
13 "readily achievable," and/or (3) to provide alternatives to barrier removal. The
14 Defendants have failed to meet these obligations.

15
16 **IV. FOURTH CAUSE OF ACTION: NEGLIGENCE** (On behalf of plaintiff and
17 against all defendants)

18 13. Plaintiff repleads and incorporates by reference, as if fully set forth again
19 herein, the allegations contained in all prior paragraphs of this complaint.

20 14. The Defendants had a general duty and a duty arising under the Americans
21 with Disabilities Act and the Unruh Civil Rights Act and California Disabled
22 Persons Act to provide safe, convenient, and accessible facilities to the plaintiff.
23 Their breach of this duty, as alleged in the preceding paragraphs, has caused injury
24 and damage as alleged above.

25
26 **PRAYER:**

27 Wherefore, Plaintiff prays that this court award damages and provide relief
28 as follows:

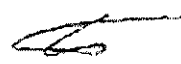
1 1. For injunctive relief, compelling defendants to comply with the Americans
2 with Disabilities Act and the Unruh Civil Rights Act. **Note:** the Plaintiff is not
3 invoking section 55 of the California Civil Code and is not seeking injunctive relief
4 under the Disabled Persons Act at all.

5 2. Damages under the Unruh Civil Rights Act and/or the California Disabled
6 Persons Act which damages provide for actual damages and a statutory minimum of
7 \$4,000. **Note:** a plaintiff cannot recover under both acts, simultaneously, and an
8 election will be made prior to or at trial.

9 3. Reasonable attorneys' fees, litigation expenses and costs of suit, pursuant to
10 42 U.S.C. § 12205; Cal. Civ. Code §§ 52 and 54.3 and Cal. Civ. Proc. § 1021.5.

11
12 Dated: August 2, 2011

CENTER FOR DISABILITY ACCESS

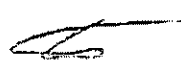
13
14 By: 
15 Mark Potter, Esq.
16 Attorneys for Plaintiff

17 **DEMAND FOR JURY TRIAL**

18 Plaintiff hereby demands a jury for all claims for which a jury is permitted.

19
20 Dated: August 2, 2011

CENTER FOR DISABILITY ACCESS

21
22 By: 
23 Mark Potter, Esq.
24 Attorneys for Plaintiff
25
26
27
28

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Sign Bar number, and address) Raymond G. Ballister, Jr. / Mark D. Potter 111282 / 166317 Center for Disability Access 9845 Erma Road, Suite 300 San Diego, CA 92131-1084 TELEPHONE NO.: (858) 375-7385 FAX NO.: (888) 422-5191 ATTORNEY FOR (Name): Plaintiff, Chris Langer		FOR COURT USE ONLY CASE NUMBER 37-2011-00056942-CU-CR-NC JUDGE: DEPT:
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 325 S. Melrose Drive MAILING ADDRESS: 325 S. Melrose Drive CITY AND ZIP CODE: Vista, CA 92081 BRANCH NAME: North County		
CASE NAME: Chris Langer v. Valley Center Oil Corporation, et al.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		

(Items 1-5 below must be completed (see instructions on page 2).)

1. Check one box below for the case type that best describes this case:

Auto Tort

- ☐ Auto (22)
☐ Uninsured motorist (46)

Other P/PI/D/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- ☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other P/PI/D/WD (23)

Non-P/PI/D/WD (Other) Tort

- ☐ Business tort/unfair business practice (07)
☒ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-P/PI/D/WD tort (35)

Employment

- ☐ Wrongful termination (36)
☐ Other employment (15)

Contract

- ☐ Breach of contract/warranty (06)
☐ Collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property

- ☐ Eminent domain/inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer

- ☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review

- ☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)

- ☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

- ☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

- ☐ RICO (27)
☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

- ☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
 b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
 c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision

3. Type of remedies sought (check all that apply):

- a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive

4. Number of causes of action (specify): 4; ADA, Unruh, CDPA, Negl.

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 08/02/2011

Mark D. Potter

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

EXHIBIT B

SUM-100

SUMMONS

(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

Valley Center Oil Corporation, a California Corporation; and Does 1-10

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTA DEMANDANDO EL DEMANDANTE):

Chris Langer

NOTICE: You have been sued. The court may decide against you without your being heard unless you respond within 30 days. ~~Information~~

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. (AVISO: Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.)

Tiene 30 DÍAS DE CALENDARIO después de que le entregan esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le de un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) or poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is: San Diego County Superior Court

(El nombre y dirección de la corte es):

325 S. Melrose Drive

Vista, CA 92081

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número del teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Center for Disability Access, 9845 Erma Road, Suite 300, San Diego, CA 92131 (619) 375-7385

CASE NUMBER:

(Número del Caso):

37-2011-00056942-CU-CR-NC

DATE: -

(Fecha) AUG 04 2011

Clerk, by _____

(Secretario)

Deputy

(Adjunto)

(For Proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)

NOTICE TO THE PERSON SERVED: You are served

(Seal)

1. ☐ as an individual defendant.2. ☐ as the person sued under the fictitious name of (specify):3. ☒ on behalf of (specify):under: ☒ CCP 418.10 (corporation)☐ CCP 418.20 (defunct corporation)☐ CCP 418.40 (association or partnership)☐ Other (specify):4. ☒ by personal delivery on (date):☐ CCP 418.80 (minor)☐ CCP 416.70 (conservatee)☐ CCP 416.90 (authorized person)

8/10/11

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